

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

JOHN ALLEN,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:22-cv-00058-TLS-JEM
)	
ALEKSANDRA DIMITRIJEVIC, et al.,)	
)	
Defendants.)	

DEFENDANT'S RESPONSE IN OPPOSITION
TO PLAINTIFF'S MOTION TO STRIKE

Defendant, the Honorable Judge Aleksandra Dimitrijevic ("Judge Dimitrijevic"), by counsel, Adrienne N. Pope, Deputy Attorney General, responds as follows to Plaintiff's Motion to Strike Defendant's Response in Opposition to Plaintiff's Motion for Leave to Amend. [ECF 35.]

1. Plaintiff John Allen has provided no basis for his Motion to Strike, ECF 35, and it should be denied.

2. Plaintiff moves to strike Defendant's Response in Opposition to Plaintiff's Motion to Amend, ECF 34, for two apparent reasons. First, he alleges that Judge Dimitrijevic's argument regarding "absolute immunity" in her Response in Opposition to Motion to Amend is "redundant." [ECF 35, ¶ 1.] Second, he alleges that undersigned counsel is making arguments for parties that she does not represent. Neither of these arguments is a basis to strike Defendant's Response.

3. Defendant, in her Response in Opposition to Plaintiff's Motion to Amend, argues just that: in opposition of Plaintiff being granted leave to amend his

complaint. In support of this position, Defendant sets forth the legal standard for leave to amend a complaint and provides supporting argument.

4. Specifically, Defendant argues that the right to amend under Rule 15 is not an absolute right and the court should consider certain factors that would preclude amendment, including futility and judicial economy. *Jafree v. Barber*, 689 F.2d 640, 644 (7th Cir. 1982) (citing *Foman v. Davis*, 371 U.S. 178 (1962), 182; *see also Verhein v. South Bend*, 598 F.2d 1061, 1063 (7th Cir. 1979).

5. Because the proposed amended complaint, ECF 33-1, would be futile and prejudicial, Defendant opposes leave to amend. The proposed amended complaint adds additional parties, including Judge Hawkins. As argued in Defendant's motion to dismiss, absolute judicial immunity applies to judicial actions which are precisely the actions Plaintiff alleges. He takes issue with Judge Dimitrijevic's ruling and Judge Hawkin's rescheduling of a hearing. These allegations are futile and granting Plaintiff leave so that Defendant is required to respond to these claims is prejudicial.

6. Additionally, Defendant argues that Plaintiff is attempting to bring unrelated claims to this lawsuit. Specifically, he is including in this action a separate lawsuit concerning a different judge. He seems to tie this together with a conclusory claim of conspiracy. Because these matters are not related, they do not belong together and leave should not be granted to amend. Fed. R. Civ. P. 20(a)(2).

7. Defendant's argument in opposition to Plaintiff's Motion to Amend was based on the legal standard for amendments to pleadings and should not be struck. Thus, Plaintiff's Motion to Strike should be denied.

WHEREFORE, Defendant, Judge Dimitrijevic, requests that the Court deny Plaintiff's motion to strike, and for all other appropriate relief.

Respectfully submitted,

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Dated: November 15, 2022 By: Adrienne N. Pope
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CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. Service of this filing will be made on all ECF-registered counsel by operation of the Court's electronic filing system. I further certify that on November 15, 2022, I electronically mailed and mailed this filing by United States Mail, first-class postage prepaid, to the following non CM/ECF participants:

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